

10/549896

Translation

PATENT COOPERATION TREATY

PCT

Rec'd PCT/PTO 22 JUN 2006

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2003P04067WO	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/001176	International filing date (day/month/year) 09.02.2004	Priority date (day/month/year) 20.03.2003
International Patent Classification (IPC) or national classification and IPC 		
Applicant SIEMENS AKTIENGESELLSCHAFT		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001176

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- international search (Rule 12.3 and 23.1(b))
- publication of the international application (Rule 12.4)
- international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:
pages 1-16 as originally filed/furnished
pages* _____ received by this Authority on _____
pages* _____ received by this Authority on _____

the claims:
nos. 1-10 as originally filed/furnished
nos.* _____ as amended (together with any statement) under Article 19
nos.* _____ received by this Authority on _____
nos.* _____ received by this Authority on _____

the drawings:
sheets 1/4-4/4 as originally filed/furnished
sheets* _____ received by this Authority on _____
sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

- the description, pages _____
- the claims, nos. _____
- the drawings, sheets/figs _____
- the sequence listing (*specify*): _____
- any table(s) related to sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- the description, pages _____
- the claims, nos. _____
- the drawings, sheets/figs _____
- the sequence listing (*specify*): _____
- any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001176

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	_____	YES
	Claims	1-10	NO
Inventive step (IS)	Claims	_____	YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims	_____	NO

2. Citations and explanations (Rule 70.7)

This report makes reference to the following documents:

D1: WO 01/37507 A (NOKIA CORP; GERENDAI MAGDOLNA (HU); TOTH MIHALY (HU); PALLER GABOR)

25 May 2001 (2001-05-25)

D2: STEVENS W R: 'TCP/IP Illustrated, Volume 1 The Protocols, TCP TIMEOUT AND RETRANSMISSION' TCP/IP ILLUSTRATED. VOL. 1 : THE PROTOCOLS, PROFESSIONAL COMPUTING SERIES, READING, MA: ADDISON WESLEY, US, vol. 1, 1994, pages 297-337, XP002223116 ISBN: 0-201-63346-9

1. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).

D1 discloses (the references in parentheses are to this document):

Process for transmitting a series of user data

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/001176

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

packets from a transmitter to a receiver via one or a plurality of devices retransmitting the user data packets, as appropriate (D1: page 1, lines 2-5), using a TCP protocol (D1: page 7, lines 8-10)

- wherein at the start of user data transmission the transmitter transmits a first number of user data packets to the receiver (D1: figure 1),
- wherein on dispatch of multiple user data packets as a first number of user data packets the user data packets are transmitted in direct sequence (D1: page 20, lines 6-8),
- wherein after dispatching the first number of user data packets the transmitter does not transmit user data packets to the receiver for a period of time (D1: figure 1)
- wherein at a later time point the transmitter transmits a second number of user data packets to the receiver (D1: figure 1), and
- wherein the transmitter receives confirmation of reception of the first number of user data packets from the receiver (D1: page 9, lines 1-3), wherein:
 - the later time point is fixed such that it precedes the time point at which confirmation of reception is received by the transmitter of the user data packets (D1: page 20, lines 12-15)

The subject matter of claim 1 is therefore not novel.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001176

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

2. Dependent claims 2-7 do not appear to contain any additional features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for novelty and inventive step. The reasons are:

Claim 2: corresponds to a minor modification of the process described in claim 1 of the kind that a person skilled in the art routinely makes on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable, as was also mentioned in the description (page 5, lines 1-5).

Consequently, the subject matter of claim 2 does not involve an inventive step.

Claim 3: the feature "that the time period ... depends" is a routine measure (see, for example, D2, cited in the application, page 299). A person skilled in the art would consider the inclusion of this measure in the process described in D1 to be an obvious procedure not exceeding normal professional practice.

Claims 4, 5 and 6: the additional features are shown in D1, page 40, lines 12-17.

Claim 7: corresponds merely to a minor modification of the process described in claim 1 and therefore lacks inventive step.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/001176

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

3. Claims 8-10, which are worded as device claims, contain no features in addition to those described in claims 1-7. Therefore, claims 8-10 do not meet the requirements for novelty and inventive step.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: I

Basis of the report

With regard to the elements of the international application, this report is based on:

In the version for the Contracting States:

AL AT BE BG CH CY CZ DE DK EE ES Fl FR GB GR HU IE IT LI
LT LU LV MC MK NL PL PT RO SE SI SK TR

Description, pages 1-16

as originally filed

Claims 1-10

as originally filed

Drawings, sheets 1/4-4/4

as originally filed